

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
SPARTANBURG DIVISION

|   |   |                             |
|---|---|-----------------------------|
| Randolph Warren Mayley,                   | ) |                             |
|   | ) |                             |
| Petitioner,                               | ) | C.A. No.: 8:11-cv-00896-JMC |
|   | ) |                             |
| v.  | ) | <b>OPINION AND ORDER</b>    |
|   | ) |                             |
|   | ) |                             |
| United States of America; Carolina First; | ) |                             |
| and Pavilion Towers, LLC,                 | ) |                             |
|   | ) |                             |
| Respondents.                              | ) |                             |
| _____                                     | ) |                             |

This matter is before the court on the Magistrate Judge’s Report and Recommendation [Doc. 55]. The Magistrate Judge’s Report and Recommendation, filed on October 13, 2011, recommends that Petitioner’s Amended Petition to Quash Summons [Doc. 14] be denied, Motion to Dismiss of Carolina First Bank [Doc. 23] be granted, and Respondent Pavilion Towers, LLC’s Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(b)(6) [Doc. 42] be granted. The Report and Recommendation sets forth in detail the relevant facts and legal standards on this matter, and the court incorporates the Magistrate Judge’s recommendation herein without a recitation.

The Magistrate Judge’s Report and Recommendation is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objections are made, and the court

may accept, reject, or modify, in whole or in part, the Magistrate Judge's recommendation or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1).

The parties were advised of their right to file objections to the Report and Recommendation [Doc 55-1]. However, the parties have not filed objections.

In the absence of specific objections to the Magistrate Judge's Report and Recommendation, this court is not required to give any explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, "in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead, must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note). Furthermore, failure to file specific objections constitutes a waiver of a party's right to further judicial review, including appellate review, if the recommendation is accepted by the district judge. *See United States v. Schronce*, 727 F.2d 91, 94 & n.4 (4th Cir. 1984).

After a thorough review of the Report and Recommendation and the record in this case, the court adopts the Magistrate Judge's Report and Recommendation [Doc. 55]. It is therefore **ORDERED** that Petitioner's Amended Petition to Quash Summons [Doc. 14] is **DENIED**, Motion to Dismiss of Carolina First Bank [Doc. 23] is **GRANTED**, and Respondent Pavilion Towers, LLC's Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(b)(6) [Doc. 42] is **GRANTED**.

**IT IS SO ORDERED.**

*J. Michelle Childs*

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United States District Judge

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November 1, 2011  
Greenville, South Carolina